
A BILL FOR AN ACT

RELATING TO CONTRACTORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the State faces a
2 critical shortage of affordable rental housing, creating
3 challenges for residents seeking accessible and diverse housing
4 options. The escalating demand for rental properties, coupled
5 with limited housing supply, has led to increased housing costs
6 and economic strain on families throughout the State.

7 The legislature further finds that current regulations and
8 barriers hinder homeowners in Hawaii from efficiently converting
9 their single-family properties into multifamily dwellings,
10 limiting their ability to actively participate in addressing the
11 housing crisis.

12 Accordingly, the purpose of this Act is to remove the
13 leasing restriction on owner-builders who obtain an owner-
14 builder exemption to act as their own contractor and who build
15 or improve residential or farm buildings or structures on their
16 own property and do not offer the buildings or structures for
17 sale.



1 SECTION 2. Section 444-2.5, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsections (a), (b), (c), and (d) to read:

4 "(a) This chapter shall not apply to owners [~~or lessees~~]
5 of property who build or improve residential or farm buildings
6 or structures on their own property [~~for their own use, or for~~
7 ~~use by their grandparents, parents, siblings, or children,~~] and
8 who do not offer the buildings or structures for sale [~~or~~
9 lease]; provided that:

10 (1) To qualify for an exemption under this section, the
11 owner [~~or lessee~~] shall register for the exemption as
12 provided in section 444-9.1;

13 (2) The exemption under this section shall not apply to
14 electrical or plumbing work that must be performed
15 only by persons or entities licensed in accordance
16 with this chapter, unless the owner [~~or lessee~~] of the
17 property is licensed for [~~such~~] work under chapter
18 448E;

19 (3) An owner [~~or lessee~~] exempted under this section
20 shall:



- 1 (A) Supervise the construction activity on the exempt
2 buildings or structures;
- 3 (B) Hire subcontractors appropriately licensed under
4 this chapter to perform any part of the
5 construction activity for which a license is
6 required;
- 7 (C) Ensure that any electrical or plumbing work is
8 performed by persons and entities appropriately
9 licensed under this chapter or chapter 448E;
- 10 (D) Deduct Federal Insurance Contributions Act and
11 withholding taxes and provide workers'
12 compensation insurance for persons working on the
13 construction activity who are not licensed under
14 this chapter or chapter 448E and who shall be
15 considered employees of the owner [~~or lessee~~];
16 and
- 17 (E) Ensure that the construction activity complies
18 with all applicable laws, ordinances, building
19 codes, and zoning regulations;
- 20 (4) Until completion of the construction activity, an
21 owner [~~or lessee~~] exempted under this section shall



1 make available the following records for immediate
2 inspection upon request by the department:
3 (A) A copy of the building permit application;
4 (B) A copy of the issued building permit;
5 (C) Copies of all contracts with the names of all
6 persons who performed or are performing work on
7 the exempt buildings and structures; and
8 (D) Proof of payment to all persons contracted to
9 work on the exempt buildings and structures; and
10 (5) Upon completion of the construction activity, an owner
11 [~~or lessee~~] exempted under this section shall keep and
12 maintain the records identified in paragraph (4) for a
13 period of three years from completion of the
14 construction activity and shall make the records
15 available for inspection within seven business days
16 upon request by the department.
17 (b) Proof of the sale [~~or lease~~] or offering for sale [~~or~~
18 ~~lease~~] of the structure within one year after completion shall
19 be prima facie evidence that the construction or improvement of
20 the structure was undertaken for the purpose of sale [~~or lease~~];
21 provided that this subsection shall not apply to:



1 (1) Residential properties sold [~~or-leased~~] to employees
2 of the owner [~~or-lessee~~];

3 (2) Construction or improvements performed pursuant to an
4 approved building permit where the estimated valuation
5 of work to be performed, as reflected in the building
6 permit, is less than \$10,000; or

7 (3) Any sale [~~or-lease~~] caused by an eligible unforeseen
8 hardship as determined by the board pursuant to
9 subsection (c).

10 (c) The board shall determine the eligibility of an
11 unforeseen hardship claimed by an owner under subsection (b);
12 provided that an alleged unforeseen hardship shall not be deemed
13 eligible if the board determines that the construction or
14 improvement of the structure was undertaken for the purpose of
15 sale [~~or-lease~~]. An exemption for an unforeseen hardship shall
16 not be denied solely because of lack of completion, as the term
17 is defined in subsection (e). An owner seeking a determination
18 of eligibility of an unforeseen hardship shall:

19 (1) Be in compliance with the requirements set forth in
20 the disclosure statement required to be provided under
21 section 444-9.1; and



1 (2) Submit a written application to the board at any time
2 prior to selling [~~r-leasing~~] or offering to sell [~~or~~
3 lease] the property describing the nature of the
4 applicant's unforeseen hardship. The application
5 shall include supporting documentation detailing the
6 hardship, such as:

7 (A) Evidence of receipt of unemployment compensation;

8 (B) Tax returns;

9 (C) Medical records;

10 (D) Bank statements;

11 (E) Divorce decrees ordering sale of property;

12 (F) Mortgage default letters; or

13 (G) Bankruptcy filings.

14 The board shall communicate its determination to the owner in
15 writing within ninety days of receiving a completed application
16 under this subsection.

17 (d) Any owner [~~or lessee~~] of property found to have
18 violated this section shall not be permitted to engage in any
19 activities pursuant to this section or to register under section
20 444-9.1 for a period of three years. There is a rebuttable
21 presumption that an owner [~~or lessee~~] has violated this section



1 when the owner [~~or~~-lessee] obtains an exemption from the
2 licensing requirements of section 444-9 more than once in two
3 years."

4 2. By amending subsection (f) to read:

5 "(f) An owner [~~or~~-lessee] exempted under this section
6 shall not be eligible to recover from the contractors recovery
7 fund."

8 SECTION 3. Section 444-9.1, Hawaii Revised Statutes, is
9 amended as follows:

10 1. By amending subsection (a) to read:

11 "(a) Each county or other local subdivision of the State
12 [~~which~~] that requires the issuance of a permit as a condition
13 precedent to the construction, alteration, improvement,
14 demolition, or repair of any building or structure shall also
15 require that each applicant for [~~such~~] a permit file as a
16 condition to the issuance of a permit a statement that the
17 applicant and all specialty contractors are licensed in
18 accordance with this chapter, giving the license numbers and
19 stating that the licenses are in full force and effect, or, if
20 the applicant is exempt from this chapter, the basis for the
21 claimed exemption; provided that if the applicant claims an



1 exemption under section 444-2.5, the applicant shall certify
2 that the building or structure is for the applicant's personal
3 use and not for use or occupancy by the general public. Each
4 county or local subdivision of the State shall maintain an
5 owner-builder registration list [~~which~~] that shall contain the
6 following information:

- 7 (1) The name of any owner [~~or lessee~~] who claims an
8 exemption from this chapter as provided in section
9 444-2.5;
- 10 (2) The address of the property where exempt building or
11 improvement activity is to occur;
- 12 (3) A description of the type of building or improvement
13 activity to occur;
- 14 (4) The approximate dates of construction activity; and
- 15 (5) Whether any electrical or plumbing work is to be
16 performed and if so, the name and license number of
17 the person or entity who will do the work.

18 The absence of [~~such~~] registration is prima facie evidence that
19 the exemption in section 444-2.5 does not apply."

20 2. By amending subsection (c) to read:



1 "(c) The county shall provide applicants for the exemption
2 under section 444-2.5 with a disclosure statement in
3 substantially the following form:

4 "Disclosure Statement

5 State law requires construction to be done by licensed
6 contractors. You have applied for a permit under an
7 exemption to that law. The exemption provided in section
8 444-2.5, Hawaii Revised Statutes, allows you, as the owner
9 [~~or lessee~~] of your property, to act as your own general
10 contractor even though you do not have a license. You must
11 supervise the construction yourself. You must also hire
12 licensed subcontractors. The building must be for your own
13 use and occupancy. It may not be built for sale [~~or~~
14 ~~lease~~]. If you sell [~~or lease~~] a building you have built
15 yourself within one year after the construction is
16 complete, the law will presume that you built it for sale
17 [~~or lease~~], which is a violation of the exemption, and you
18 may be prosecuted for this. It is your responsibility to
19 make sure that subcontractors hired by you have licenses
20 required by state law and by county licensing ordinances.
21 Electrical or plumbing work must be performed by



1 contractors licensed under chapters 448E and 444, Hawaii
2 Revised Statutes. Any person working on your building who
3 is not licensed must be your employee, which means that you
4 must deduct F.I.C.A. and withholding taxes and provide
5 workers' compensation for that employee, all as prescribed
6 by law. Your construction must comply with all applicable
7 laws, ordinances, building codes, and zoning regulations.
8 If you violate section 444-2.5 or fail to comply with the
9 requirements set forth in this disclosure statement, you
10 may be fined \$5,000 or forty per cent of the appraised
11 value of the building as determined by the county tax
12 appraiser, whichever is greater, for the first offense; and
13 \$10,000 or fifty per cent of the appraised value of the
14 building as determined by the county tax appraiser,
15 whichever is greater, for any subsequent offense."

16 The county shall not issue a building permit to the owner-
17 applicant until the applicant signs a statement that the
18 applicant has read and understands the disclosure form."

19 SECTION 4. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on July 1, 3000.

Report Title:

Contractors; Owner-builder Exemption; Leasing Restriction;
Disclaimer; Repeal

Description:

Repeals the leasing restriction on owner-builders who obtain an owner-builder exemption to act as their own contractor and who build or improve residential or farm buildings or structures on their own property and do not offer the buildings or structures for sale. Takes effect 7/1/3000. (SD1)

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